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In re Application of
Jozef Dechamps
Application No. 10/629,355
Filed: July 29, 2003
Attorney Docket No. XP-1107

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JUL 27 2004

OFFICE OF PETITIONS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration filed March 9, 2004, under 37 CFR 1.47(b).

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on July 29, 2003 without an executed oath or declaration and on October 28, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. A petition was filed December 22, 2003 and dismissed in a decision mailed February 26, 2004.

In response, on December 22, 2003, the present petition was filed.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest, and
- (6) proof of irreparable damage.

The original petition lacked items (1), (2), (5) and (6).

Comes now petitioner with a statement from Marc De Niel an employee for the assignee that he (Mr. De Niel) personally presented the application papers to the non-signing inventor, Mr. Dechamps and that Mr. Dechamps refused to execute the oath or

declaration. A statement regarding irreparable damage is presented, a legal memorandum regarding the proprietary interest of AGFA-GEVAERT and an oath or declaration signed by Mr. Robert A. Sabourin, Patent Counsel on behalf of the assignee AGFA-GEVAERT.

The oath or declaration, however is defective in that it does not provide proof of authority of Mr. Sabourin to sign the declaration on behalf of the AGFA-GEVAERT. The declaration must be signed by an officer of the assignee (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor. The officer must identify his or her title in the Declaration. If the declaration is not signed by an officer of the entity applying for Rule 47 status, then proof of authority of the person signing on behalf of the entity must be submitted.¹ A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497. Please note that effective September 28, 2004, the Office of Petitions can be reached at (571) 272-3282.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹See MPEP 409.03(b).